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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities
Twentieth session

Summary record of the 415th meeting*
Held at the Palais des Nations, Geneva, on Monday, 10 September 2018, at 3 p.m.

Chair: Ms. Degener

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* No summary records were issued for the 411th to 414th meetings.

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of the former Yugoslav Republic of Macedonia (CRPD/C/MKD/1; CRPD/C/MKD/Q/1 and CRPD/C/MKD/Q/1/Add.1)

1. *At the invitation of the Chair, the delegation of the former Yugoslav Republic of Macedonia took places at the Committee table.*

2. **Mr. Tomsic** (The former Yugoslav Republic of Macedonia), introducing his country's initial report (CRPD/C/MKD/1), said that his Government was committed to upholding the rights of persons with disabilities and had adopted a series of measures to implement the Convention. It had conducted a far-reaching review of national legislation and had amended various laws to bring them into line with the Convention's provisions, including the Law on Social Protection, the Law on Child Protection, the Law on Construction Works and the Law on Equal Opportunities between Women and Men. In addition, efforts were under way to adopt a definition of disability compatible with article 1 of the Convention, standardize the terminology used to describe persons with disabilities and pass the draft new Law on Prevention of and Protection against Discrimination, which referred explicitly to discrimination on the basis of disability. Further action was required, however, to give effect to the economic and social rights of persons with disabilities, including measures to strengthen their participation in the labour market and improve their access to decent health care.

3. The Government had taken steps to facilitate access to appropriate health-care services for persons with disabilities, particularly children with disabilities. A Ministry of Health working group had identified the need for additional specialist medical support to be made available for those children. Following consultations with families, the Government had launched an action plan for the promotion of health care for persons with disabilities, including children, under which access to such support would be enhanced. Some persons with disabilities would be eligible for exemptions from health insurance contributions, pursuant to amendments to the Law on Health Insurance, and steps had been taken to facilitate the social and medical assistance application process for families of children with disabilities and to raise by 15 per cent the amount of the welfare benefits provided to cover the rehabilitation and medical costs those families incurred.

4. Various measures had been implemented to promote the inclusion of children with disabilities in mainstream schools. For example, teachers were now required to follow inclusive teaching plans and devise inclusive teaching practices. Training sessions on inclusive education had been organized for preschool teachers, and 131 additional special needs teachers had been recruited — 74 at the primary and 57 at the senior school level — along with an additional 140 teaching and personal assistants in 2018. Furthermore, some 70 special needs teachers had recently undergone training in the early identification of children requiring special educational assistance.

5. His Government had made concerted efforts to deinstitutionalize persons with disabilities and establish policies and services that would enable them to live in the community. A separate budget line had been made available for the deinstitutionalization process; a large proportion of that funding — some 17.5 million denars — would be allocated to independent living programmes such as the project to provide personal assistants to some 100 persons with severe disabilities. Representatives from civil society, organizations of persons with disabilities and United Nations agencies had played an active role in the drafting and implementation of the national deinstitutionalization policy, which would ensure that, by 2020, no child under the age of 3 would be placed in institutional care. Specific action had also been taken to reform the Demir Kapija institution and transfer the persons living there to smaller group homes. A special media campaign entitled "Each Child Deserves a Family" had been launched, in cooperation with the United Nations Children's Fund (UNICEF), to promote foster care and the importance of living in a family environment for children with disabilities.

6. Measures had been taken to strengthen the provisions of the Law on Employment of Persons with Disabilities and improve access to appropriate rehabilitation services for persons with disabilities, with a view to facilitating their participation in the labour market. Efforts were also under way to make personal employment assistants available to persons with disabilities who wished to work but needed special support in order to do so.

7. Since 2013, local authorities had been required to comply with universal design standards and ensure unimpeded access to public buildings and institutions for persons with disabilities. To date, some 28 government buildings and around 11 prison cells had been specially adapted. However, much remained to be done in that regard.

8. Violence prevention was another area in which further efforts were needed. The former Yugoslav Republic of Macedonia had ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in 2017 and had been taking steps to implement its provisions.

9. Questions on disability had been included in the national census questionnaire, in accordance with the recommendations of the Washington Group on Disability Statistics. In addition, a national database of persons with disabilities was being developed to collate relevant disability-related information contained in the databases of the Ministry of Labour and Social Policy, the Health Insurance Fund and the Employment Service Agency.

10. The Government had decided to establish two national bodies to coordinate and monitor the implementation of the Convention, respectively. The National Coordination Body for Implementation of the Convention had held its first meeting in July 2018, in the presence of the Prime Minister and other high-profile government ministers, who had pledged to improve the status and inclusion of persons with disabilities. The second body, to monitor the implementation of the Convention, would be operational soon and would evaluate the progress made to uphold the rights of persons with disabilities in several key areas.

11. **Mr. Babu** (Country Rapporteur) said that the State party was to be commended on the establishment of the National Coordination Body for Implementation of the Convention. However, the current mandate and structure of the body were not in compliance with the Convention, and it did not appear to cooperate sufficiently with the National Council of Disability Organizations. The Committee hoped that there would be greater cooperation between the Government and organizations of persons with disabilities in the future.

12. The medical model of disability continued to prevail in the State party, as was evident from the definitions of disability contained in various laws. The Constitution, moreover, failed to mention disability as a ground of discrimination and disability was not included in its general clause on equality. There also appeared to be no legal remedies available for persons with disabilities who had been victims of discrimination. The State party's legislation needed to be reviewed and amended to ensure that it complied fully with the Convention and promoted a social approach to disability.

13. While national legislation such as the laws on housing, public transport and public roads and construction works took a systematic and comprehensive approach to physical accessibility, no sanctions had been established to punish those who failed to comply with those laws. Furthermore, their provisions appeared to have been applied solely in the capital city and not in municipal and rural areas, and there had been reports that, even in Skopje, buildings had been constructed with scant regard for the accessibility requirements in force. Greater cooperation was needed between the Government and organizations of persons with disabilities in monitoring and evaluating the implementation of accessibility standards. An overarching, inclusive approach to accessibility should be adopted with clear monitoring and evaluation frameworks, in order to determine the level of compliance with and effectiveness of those standards.

14. With regard to inclusive education, the new Law on Elementary and Secondary Education did not contain provisions explicitly protecting children with disabilities from discrimination, and there was a clear lack of support for those children, not least in the form of early intervention and appropriately trained staff. The State party should, in particular,

provide more sign language training to teachers and consider adopting sign language as an official language.

15. The State party was to be commended on the adoption of article 6 of the Law on Labour Relations, which explicitly prohibited disability-based discrimination. It should, however, review and amend the numerous laws that were not aligned with article 6 and ensure that all legislation complied with article 27 of the Convention.

16. The discriminatory provisions that allowed persons with disabilities to be deprived of legal capacity on the basis of their disability should be repealed and supported decision-making mechanisms should replace the current guardianship system. While the Government had made progress with regard to general human rights training for legal professionals, more continuous and systematic training on the Convention, and particularly article 13 on access to justice, was needed. Reform of the restrictive provisions on free legal aid would likewise improve access to justice for persons with disabilities.

17. National legislation restricted the right to vote of persons with disabilities, particularly those living in institutions or staying temporarily in medical or rehabilitation centres. The principles of equality, non-discrimination and accessibility were often not respected during the election process and reasonable accommodation did not appear to be provided, which prevented some persons with disabilities, most notably those with intellectual and/or psychosocial disabilities, from exercising their right to vote at all.

18. The current deinstitutionalization process was inadequate. Indeed, the Government was still spending more on institutional care than on community-based options, and there was a lack of independent living facilities. It was to be hoped that the Government would take account of the shortcomings of its previous deinstitutionalization strategy when developing the new one, which should be drawn up in close cooperation with organizations of persons with disabilities and other local stakeholders in order to ensure the long-term sustainability of the deinstitutionalization process. In that connection, overreliance on funding from United Nations bodies and other agencies, such as the Red Cross, should be avoided.

19. The State party should take steps to ensure that persons with disabilities could participate fully in cultural life, recreation, leisure and sport. To that end, it should ratify or accede to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

20. Lastly, the national monitoring mechanism should be fully independent and have the necessary budgetary resources, in keeping with the Paris Principles, and municipal authorities should establish independent monitoring committees to ensure a coordinated, nationwide approach to matters concerning persons with disabilities.

Articles 1–10

21. **Mr. Kabue** asked how the National Coordination Body for Implementation of the Convention was constituted and how persons with disabilities were represented on the body and involved in its work. He wished to know what specific measures were in place to tackle disability-based discrimination and, in particular, to ensure that denial of reasonable accommodation was recognized as a form of discrimination. He would also like to hear how women and girls with disabilities were protected against all forms of violence, and what was being done to afford them access to reproductive health services and promote their economic empowerment. Lastly, the delegation should explain how the Government ensured that awareness-raising on the rights of persons with disabilities took place on a continuous, rather than an ad hoc, basis and that persons with disabilities were involved in planning awareness-raising programmes.

22. **Mr. Basharu** asked whether the State party would take steps to remove the derogatory language concerning persons with disabilities from its laws, policies and other documents. He also wished to know how children with disabilities were included in society, whether they took part in any children's assemblies or parliaments and what weight was given to their views.

23. **Mr. Alsaif** asked what measures were being taken to ensure that the specific needs of women and girls with disabilities were addressed in the National Strategy on Equal Rights of Persons with Disabilities and to amend the Law on Equal Opportunities for Women and Men to include special provisions on women and girls with disabilities. He would also like to hear how the State party ensured that children with disabilities were protected from corporal punishment, abuse and exploitation and that the families of children with disabilities were given the support and resources they needed. Lastly, he wondered whether any of the country's universities or other training institutions offered engineering or design courses that included universal design as part of the mandatory curriculum, and what penalties were in place in the event of non-compliance with accessibility standards and regulations.

The meeting was suspended at 3.50 p.m. and resumed at 4.10 p.m.

24. **Mr. Tomsic** (The former Yugoslav Republic of Macedonia) said that all funds allocated to the deinstitutionalization process came directly from the national budget and that the Red Cross was merely the service provider. Funds were now being transferred away from institutional care and into community-based options.

25. The Government was working to harmonize its definition of disability across all relevant legislation and to ensure that the definition was in line with the Convention. A revision of the definition of disability contained in the draft new Law on Prevention of and Protection against Discrimination had thus been proposed following consultations with organizations of persons with disabilities and academic experts. As the Commission for Protection against Discrimination was to become a full-time, independent body, it was hoped that more complaints would be filed through that mechanism and more issues relating to disability-based discrimination resolved as a result.

26. The Law on Equal Opportunities for Women and Men did not contain any special provisions on women and girls with disabilities. While women and girls with disabilities were included in general measures for the economic empowerment of women and girls, they were not addressed as a specific group.

27. His Government was conscious of the shortcomings of the previous national implementation and monitoring structure. For that reason, it had set up the new National Coordination Body for Implementation of the Convention and was encouraging civil society organizations to establish an independent monitoring mechanism in cooperation with the Ombudsman's Office.

28. The public transport system and the roads in the capital were accessible. His Government acknowledged, however, that the same was not true in other parts of the country.

29. **Mr. Dodevski** (The former Yugoslav Republic of Macedonia), pointing out that the current Government had been the first to appoint a special adviser on the rights of persons with disabilities, said that the National Coordination Body for Implementation of the Convention, which had been operational for several months, would be allocated additional funding in due course. The new mechanism comprised 15 members, including 2 representatives from the Office of the Prime Minister, 11 representatives from other government ministries, 1 representative elected by the National Council of Disability Organizations and 1 representative appointed by organizations of parents of children with disabilities. It would coordinate implementation of the Convention, and all draft laws and regulations concerning persons with disabilities would be submitted to it. The new mechanism would also be responsible for raising awareness of the rights of persons with disabilities within the community and across sectors including education and health care. It would work with civil society organizations to that end.

30. **Mr. Trkaljanov** (The former Yugoslav Republic of Macedonia) said that the university architecture curriculum had been broadened to include the design, construction and adaptation of building interiors and exteriors to ensure that they were accessible for persons with disabilities. Under the Law on Construction Works, public and commercial buildings must be designed and constructed in such a way as to provide unimpeded access

for persons with disabilities. Funds had been set aside for the design and construction of accessible playgrounds in accordance with the principles of universal design.

31. The Skopje municipal authorities had drawn up plans to make bus stop platforms more accessible, in line with national legislation, while the design of railway platforms had been adapted to meet the needs of persons with disabilities and a number of accessibility ramps had been installed. The right of persons with disabilities to equal and unrestricted access to, from and within airports was recognized and upheld by the operator.

32. Sign language interpretation was provided for several television programmes. However, his Government acknowledged the need to improve access to information for persons with visual impairments.

33. An action plan for the implementation of accessibility had been drawn up. The Ministry of Labour and Social Policy and the Ministry of Transport and Communications drafted and submitted to the Government information papers on how to enhance accessibility. A report had been prepared on the continuous monitoring of changes and improvements regarding accessibility. Inspections were carried out to ensure compliance with relevant legal provisions and penalties were applied in cases of non-compliance.

34. **Mr. Tomsic** (The former Yugoslav Republic of Macedonia) said that information concerning training courses on sexual and reproductive health for both persons with disabilities and professionals working with those persons and on preventing, recognizing and reporting sexual abuse for foster families of persons with disabilities could be found in paragraphs 116 to 118 of the replies to the list of issues (CRPD/C/MKD/Q/1/Add.1).

35. The delegation included one member with a disability, Mr. Trkaljanov, who worked in the office of the Minister of Labour and Social Policy as an adviser on disability-related issues. More generally, persons with disabilities were employed by a range of government bodies, in order to ensure that policies reflected a disability perspective and to promote inclusion. Prior to the adoption of any regulation or law, members of the public, including persons with disabilities, had the opportunity to comment on the draft text in question, including at public hearings. Such comments must be taken into account and, where possible, were incorporated into the final instrument. Working groups including members with disabilities were set up to provide input whenever legislation on issues such as social protection, health care or education was being drafted.

36. In 2019, further support would be provided for the transfer of persons with disabilities from institutions to community-based facilities. The new Law on Social Protection, which would enter into force on 1 January 2019, would provide for the development of individual support plans, with the involvement and consent of the persons with disabilities concerned. Case managers would be appointed to assist in the implementation of such plans. There was significant political support for ongoing work to reform the social protection system. Budgetary funds had been earmarked for that purpose and a number of housing units had been set aside to enable independent living.

Articles 11–20

37. **Mr. Buntan** said that it was not clear whether any legal provisions had been adopted requiring the Government to provide support to enable persons with disabilities and their representative organizations to participate in the formulation of policies and laws that affected them or whether organizations not represented on the National Council of Disability Organizations received any technical or financial support for such participation.

38. Turning to article 11, he asked what measures the Government had taken to make disaster risk reduction plans, policies and protocols disability-inclusive and accessible and to bring them into line with the Sendai Framework for Disaster Risk Reduction 2015–2030. He also wished to know what had been done to ensure that emergency hotlines were accessible for deaf persons, deaf-blind persons and persons with intellectual disabilities.

39. He asked what steps had been taken to implement article 19 of the Convention in the context of the deinstitutionalization process, particularly with regard to the development of community-based support services, including personal assistance, to ensure that persons with disabilities could live independently. Many organizations of persons with disabilities

opposed the idea of group homes on the basis that they failed to promote independent living. It would be interesting to hear the State party's views in that regard.

40. **Mr. Ruskus** asked whether measures had been taken to eliminate the derogatory terms used in the Law on Extrajudicial Settlement and the Law on the Family to refer to persons with psychosocial and/or intellectual disabilities, to repeal laws allowing for deprivation of legal capacity and to set up supported decision-making mechanisms that respected the will and preferences of persons with disabilities.

41. He would be interested to hear whether mental health treatments were administered with the free and informed consent of the individuals concerned and whether there were legal safeguards in place to prevent the involuntary committal of persons with psychosocial disabilities and their forced treatment during such deprivation of liberty. Information on the provision of community-based, recovery-oriented rehabilitation and other support services for persons with psychosocial disabilities would be welcome; according to reports, a joint project with the World Health Organization for the establishment of such services had been abandoned. He wondered whether the State party intended, within the Council of Europe, to oppose the draft Additional Protocol to the Convention on Human Rights and Biomedicine, concerning the protection of human rights and dignity of persons with mental disorders with regard to involuntary placement and involuntary treatment. Lastly, he wished to know what reasonable accommodation was provided for persons with disabilities, particularly women with disabilities, in detention facilities.

42. **Mr. Pyaneandee** said that it would be useful to have information on how legally incapacitated persons, particularly persons with psychosocial and/or intellectual disabilities and persons with disabilities placed in institutions, accessed the justice system and how those persons could challenge the laws under which they had been deprived of legal capacity. He asked what measures had been adopted to implement the concepts of procedural and age-appropriate accommodation in the justice system. In particular, he wished to know what procedural accommodations were in place with regard to the interrogation, detention and trial of persons with disabilities, in particular psychosocial and/or intellectual disabilities, suspected of committing a crime. Information on the budget set aside, for the past year and for the future, for training on the Convention for judges, legal professionals, prison officers and related staff would be useful. Lastly, he wondered what measures had been taken to enable persons with disabilities to participate, directly or indirectly, in the justice system.

43. **Mr. Lovaszy** asked what percentage of children with disabilities were covered by the network of day-care centres referred to in paragraph 16 of the replies to the list of issues. He also wished to know whether support and funds had been provided for the deinstitutionalization efforts referred to in paragraph 55 of the replies and whether a road map had been developed to guide the process with the involvement of organizations of persons with disabilities.

44. **Mr. Martin** said that the State party should shut all remaining institutional care facilities. Examples of good practices in that regard abounded in other countries. Information on the number and percentage of persons with psychosocial and/or intellectual disabilities currently living in institutions would be useful. He would also appreciate details regarding the quality of life of persons with disabilities placed in institutions and the measures in place to protect their rights. Lastly, he wished to know how persons with disabilities in foster homes were protected from abuse.

45. **Mr. Babu**, following up on questions put under articles 1 to 10, said that he would like to know what specific measures had been taken to protect women with disabilities, in particular those with mental and/or psychosocial disabilities, from gender-based violence, harassment and abuse in institutional settings. He also wished to hear whether disability had been mainstreamed in policies, strategies and action plans aimed at combating gender-based discrimination and, if so, how. He wondered what measures or plans had been adopted to curtail the practice of placing children with disabilities in orphanages and to support alternative family-based care services. Lastly, he would appreciate more information on the penalties applicable for non-compliance with accessibility standards, for example in the construction and transport sectors.

46. **Mr. Langvad** said that he did not understand how one person with a disability was able to advise the Government on all issues that affected persons with disabilities. Were organizations of persons with disabilities able to supplement his input, for example where the deinstitutionalization process was concerned? He wished to point out in that regard that the transfer of persons with disabilities from large institutions to group homes did not constitute a form of deinstitutionalization, as such persons would still be unable to decide for themselves where, how and with whom to live.

47. **The Chair** said that she would appreciate more information on the disability assessment system currently in place in the State party. In particular, she wished to know whether organizations of persons with disabilities had played a role in designing the system; whether it reflected the human rights model of disability; and whether persons with disabilities were actively involved in generating the information on the basis of which assessments were made. It would also be useful to learn whether steps had been taken to ensure that only one assessment method was used, which would lighten the burden on applicants and promote consistency and transparency in decision-making; whether information on assessment requirements was accessible and user-friendly; and whether disability assessment processes were regularly and independently reviewed and scrutinized.

48. It was still not clear what measures had been taken to empower women with disabilities and to combat the multiple and intersectional discrimination they faced. She would be grateful if the delegation could comment further on the rights of women subject to guardianship arrangements and similar forms of legal incapacitation in relation to sterilization and abortion. Could they be subjected to those procedures without their consent? She also wondered what mechanisms were in place to ensure that children with disabilities were consulted on decisions that affected their lives and were able to influence those decisions.

49. It would be helpful to know how many persons with disabilities had been removed from guardianship arrangements since the State party's ratification of the Convention and how many had benefited from supported decision-making services over that period. Had the provision of such services been reviewed and evaluated? She would also like to hear whether the numbers of persons with disabilities who had been subjected to forced interventions in the medical field, women subject to guardianship arrangements who had been sterilized or compelled to undergo abortions and persons with disabilities, particularly children, who had been removed from institutions had increased or decreased since the State party's ratification of the Convention. Statistics on those trends would be most welcome.

50. **Mr. Basharu** asked what measures had been taken to ensure the freedom of movement and personal safety of refugees with disabilities and to protect such persons. He also wished to know what forms of assistance, for example tax incentives, were used to make adapted vehicles more affordable to persons with motor impairments.

51. **Mr. Tatić** said that it was not clear how the Government had determined the number of persons with disabilities who would receive personal assistance and how additional funding would be secured if it transpired that a larger number of persons with disabilities required such assistance. He would be grateful if the delegation could provide examples of specific cases in which penalties had been imposed for non-compliance with accessibility standards. Regarding the public consultation process referred to by the delegation, it would be useful to learn what measures had been taken to enable grass-roots organizations of persons with disabilities to take part alongside more established representative organizations. Lastly, he wished to know whether it was still the case that, contrary to the practice at most other European airports, wheelchair users who took flights leaving from Skopje International Airport had to be removed from their own wheelchairs before boarding.

52. **Mr. Buntan** asked whether the State party planned to incorporate rules on accessibility into public procurement processes, whether persons with disabilities faced any obstacles, for example legal restrictions, that prevented them from accessing banking services and receiving an inheritance and, if they did, what measures would be taken to improve the situation.

The meeting was suspended at 5.15 p.m. and resumed at 5.30 p.m.

53. **Mr. Tomsic** (The former Yugoslav Republic of Macedonia) said that the transfer of persons with disabilities from large institutions to small group homes represented a first step towards deinstitutionalization. The ultimate aim of the deinstitutionalization process was to facilitate independent living. Small group homes were most appropriate for younger children without parental care. Persons living in institutions who would prefer to live independently were able to do so, and individualized care plans were drawn up for them.

54. The Government was introducing a system of gender budgeting under which the implementation of all programmes and strategies would be measured against gender indicators. The Ministry of Labour and Social Policy was working with a United Nations agency on a new project to address gender issues in relation to disability. Gender indicators were being developed for the new bill on budgeting.

55. **Mr. Trkaljanov** (The former Yugoslav Republic of Macedonia) said that, although he was consulted on the adoption of policies that would affect persons with disabilities, he recognized that he could not speak on behalf of all such persons. For that reason, the Government consulted other persons with disabilities and their representative organizations in order to ensure that proposed laws and policies would benefit them.

56. Skopje International Airport was currently not as accessible to persons with disabilities as many other airports in Europe. Wheelchair users were not able to remain in their own wheelchairs for the duration of their passage through the airport. There was a need to introduce comprehensive disability awareness training for airport personnel. Regarding the accessibility of buildings, large fines were imposed for failure to comply with relevant standards in construction projects.

57. **Mr. Tomsic** (The former Yugoslav Republic of Macedonia) said that a bill on public procurement had passed the second reading, while there were plans to introduce new public procurement arrangements for organizations operating in the social service, health-care and cultural sectors. Further details would be provided in writing.

58. **Ms. Krstevska** (The former Yugoslav Republic of Macedonia) said that steps were being taken to replace the current disability assessment system, which was based on a medical model of disability. The International Classification of Functioning, Disability and Health (ICF) was gradually being introduced as a disability assessment tool. It had been translated into Macedonian, and training courses on its provisions had been organized for psychologists and education professionals. The next step would be to conduct a pilot project to introduce the ICF system in a small number of municipalities.

59. The current disability assessment system was unsatisfactory for a number of reasons, including the exclusion of parents, children and education professionals from decision-making. The Government fully recognized the need for reform. The Prime Minister had recently affirmed the Government's clear commitment to the introduction of the ICF system.

The meeting rose at 5.45 p.m.